

House File 664 - Introduced

HOUSE FILE 664

BY GASSMAN

A BILL FOR

1 An Act creating the elevated marriage Act, providing for a
2 tax credit, paid parental leave, and the creation of and
3 appropriations from an elevated marriage trust fund.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

ELEVATED MARRIAGE

Section 1. NEW SECTION. 595A.1 Title.

This chapter shall be known and may be cited as the "*Elevated Marriage Act*".

Sec. 2. NEW SECTION. 595A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Authorized counseling*" means marital counseling provided by a licensed or ordained minister, or the minister's designee, a person authorized to solemnize marriages under section 595.10, or a licensed marital and family therapist as defined in section 154D.1.

2. "*Legal separation*" means a judicial proceeding resulting in a court determination that the married parties live apart from each other while remaining married.

Sec. 3. NEW SECTION. 595A.3 Elevated marriage — eligibility — conditions to create.

An elevated marriage may be entered into only by one man and one woman who comply with the age requirements pursuant to section 595.2 and who meet all of the following conditions:

1. Agree that the marriage between them is a lifelong relationship.

2. Receive authorized counseling emphasizing the nature, purposes, and responsibilities of marriage.

3. File a declaration of intent and the required attachments with the county registrar pursuant to section 595A.4.

Sec. 4. NEW SECTION. 595A.4 Declaration of intent.

1. The parties to an elevated marriage shall complete a declaration of intent to enter into an elevated marriage that includes a recitation to the following effect:

"We (names of both parties) do solemnly declare that a marriage is a commitment between a man and a woman who agree to live together as husband and wife for as long as they both live. We have chosen each other carefully and have

1 disclosed to one another everything which could adversely
2 affect the decision to enter into this marriage. We have
3 received the authorized counseling on the nature, purposes, and
4 responsibilities of marriage. We have read the Iowa Elevated
5 Marriage Act and the informational pamphlet and we understand
6 that a marriage is intended to be for life, for better or
7 worse, for richer or poorer, in sickness and in health. If
8 we experience marital difficulties, we commit ourselves
9 to take all reasonable efforts to preserve our marriage,
10 including marital counseling. With full knowledge of what
11 this commitment means, we declare that our marriage will be
12 bound by the Iowa Elevated Marriage Act standards of marriage
13 commitment, and we affirm that we will love, honor, and care
14 for one another as husband and wife for the rest of our lives.”

15 2. The declaration of intent filed with the county registrar
16 shall be accompanied by all of the following attachments:

17 a. An affidavit by the parties that they have received
18 authorized counseling that included a discussion of the
19 seriousness of marriage, communication of the fact that
20 marriage is a commitment for life between a man and a woman,
21 a discussion of the obligation to seek marital counseling in
22 times of marital difficulty, and a discussion of the exclusive
23 grounds for elevated marriage dissolution.

24 b. An attestation signed by the person who provided the
25 authorized counseling confirming that the parties received
26 authorized counseling as to the nature and purpose of marriage,
27 the grounds for dissolution of an elevated marriage, and an
28 acknowledgment that the person who provided the counseling
29 provided the parties with the informational pamphlet developed
30 pursuant to section 595A.6.

31 3. The declaration of intent and the required attachments
32 shall be prepared in duplicate originals, one of which shall be
33 retained by the parties and the other of which shall be filed
34 with the county registrar of the county in which the parties
35 applied for a license to marry.

1 Sec. 5. NEW SECTION. **595A.5 Redesignation of existing**
2 **marriage as an elevated marriage.**

3 Married parties may redesignate their marriage as an
4 elevated marriage by executing and filing with the county
5 recorder in the county in which the parties reside a
6 declaration of intent and the required attachments as specified
7 in section 595A.4. The county recorder shall make a notation
8 on the declaration of intent to redesignate the marriage as an
9 elevated marriage identifying the source of issuance of the
10 original marriage license of the parties.

11 Sec. 6. NEW SECTION. **595A.6 Informational pamphlet.**

12 The office of the attorney general shall develop an
13 informational pamphlet entitled "Elevated Marriage Act" that
14 outlines in sufficient detail the requirements for entering
15 into an elevated marriage or redesignating an existing marriage
16 as an elevated marriage, the implications of entering into
17 an elevated marriage, and the legal differences between
18 an elevated marriage and a marriage entered into pursuant
19 to chapter 595. The informational pamphlet shall be made
20 available to all offices of the county registrar and to all
21 persons who provide authorized counseling under this chapter.

22 Sec. 7. NEW SECTION. **595A.7 Dissolution of elevated**
23 **marriage — exclusive grounds if welfare of minor child involved**
24 **— process.**

25 1. Subsequent to the parties obtaining authorized
26 counseling, a party to an elevated marriage which does not
27 involve the welfare of a minor child may obtain a dissolution
28 of marriage in accordance with chapter 598.

29 2. Notwithstanding any other provision of law to the
30 contrary, and subsequent to the parties obtaining authorized
31 counseling, a party to an elevated marriage involving the
32 welfare of a minor child may obtain a dissolution of marriage
33 only upon proof of any of the following:

34 a. The other party committed adultery.

35 b. The other party committed a felony and has been sentenced

1 to imprisonment.

2 *c.* The other party has physically or sexually abused the
3 party seeking the dissolution or a child of either of the
4 parties.

5 *d.* The parties have been living separate and apart
6 continuously without reconciliation for a period of at least
7 two years.

8 3. *a.* Notwithstanding any other provision of law to the
9 contrary, a dissolution of marriage sought by the parties to
10 an elevated marriage involving the welfare of a child, shall
11 require the parties to participate in mediation in accordance
12 with chapter 679C to reach agreement.

13 *b.* The district court shall order the parties to participate
14 in mediation, which shall include attendance at any mediation
15 session with the mediator and the parties to the action,
16 listening to the mediator's explanation of the mediation
17 process, presentation of one party's view of the case, and
18 listening to the response of the other party.

19 *c.* The parties may choose the mediator, or the court shall
20 appoint a mediator. A court-appointed mediator shall meet the
21 qualifications established by the supreme court.

22 *d.* (1) The mediation agreement shall provide for joint
23 physical care of any minor child of the parties, unless the
24 mediator determines that joint physical care is not in the best
25 interest of the child. If the mediator determines that joint
26 physical care is not in the best interest of the child, the
27 determination shall be accompanied by specific findings of fact
28 and conclusions of law that the awarding of joint physical care
29 is not in the best interest of the child.

30 (2) The mediation agreement shall include a parenting
31 plan that addresses issues including but not limited to how
32 the parents will make decisions affecting the child, how the
33 parents will provide a home for the child, how the child's time
34 will be divided between the parents and how each parent will
35 facilitate the child's time with the other parent, arrangements

1 for support of the child in lieu of court-ordered child
2 support, and how the parents will resolve major changes or
3 disagreements affecting the child including changes that arise
4 due to the child's age and developmental needs.

5 e. A mediation agreement reached by the parties shall be
6 presented to the court for approval and once approved by the
7 court, is enforceable.

8 f. The costs of mediation shall be borne by the parties,
9 as agreed to by the parties, or as ordered by the court, and
10 may be taxed as court costs. Mediation shall be provided on a
11 sliding fee scale for parties who are determined to be indigent
12 pursuant to section 815.9.

13 g. The parties to the mediation have the right to advice
14 and presence of counsel, but the mediator shall determine
15 whether the attorney will be allowed to actively participate in
16 the mediation sessions, and no attorney fees shall be awarded
17 relative to an attorney's participation in mediation.

18 Sec. 8. NEW SECTION. **595A.8 Elevated marriage — legal**
19 **separation — exclusive grounds.**

20 A party to an elevated marriage may obtain a decree of legal
21 separation only after the parties have received authorized
22 counseling and upon proof of any of the following:

23 1. The other party committed adultery.

24 2. The other party committed a felony and has been sentenced
25 to death or imprisonment.

26 3. The other party has physically or sexually abused the
27 party seeking the legal separation or a child of either of the
28 parties.

29 4. The parties have been living separate and apart
30 continuously without reconciliation for a period of at least
31 two years.

32 5. The other party has habitually abused alcohol for one
33 year or longer.

34 6. The other party has by their actions endangered the life
35 of the party seeking the legal separation.

1 7. The other party's extreme cruelty toward the party
2 seeking the legal separation as evidenced by threatened or
3 actual injury to that party's physical or mental health has
4 rendered the marriage intolerable for the party seeking the
5 legal separation.

6 Sec. 9. NEW SECTION. **595A.9 Elevated marriage — other**
7 **applicable law.**

8 1. An elevated marriage shall be governed by all of the
9 provisions of chapter 595 which do not conflict with this
10 chapter.

11 2. A dissolution or legal separation of an elevated marriage
12 shall be governed by all of the provisions of chapter 598 which
13 do not conflict with this chapter.

14 Sec. 10. NEW SECTION. **595A.10 Elevated marriage trust fund.**

15 1. An elevated marriage trust fund is created in the state
16 treasury under the control of the department of human services.
17 The fund shall consist of the moneys transferred from the
18 department of human services pursuant to section 217.41C to the
19 elevated marriage trust fund, annually. Moneys in the trust
20 fund shall be separate from the general fund of the state and
21 shall not be considered part of the general fund of the state.
22 However, the trust fund shall be considered a special account
23 for the purposes of section 8.53 relating to generally accepted
24 accounting principles. Moneys in the trust fund shall be used
25 only as specified in this section and are appropriated only for
26 the uses specified. Moneys in the trust fund are not subject
27 to section 8.33 and shall not be transferred, used, obligated,
28 appropriated, or otherwise encumbered, except as provided in
29 this section. Notwithstanding section 12C.7, subsection 2,
30 interest or earnings on moneys deposited in the trust fund
31 shall be credited to the trust fund.

32 2. Moneys in the trust fund are appropriated and shall be
33 used for the payment of tax credits pursuant to section 422.12F
34 and for reimbursement for parental leave provided pursuant to
35 section 91A.5B.

1 3. The treasurer of state, the director of the department
2 of revenue, the director of the department of human services,
3 and the labor commissioner shall jointly adopt rules for the
4 transfer, deposit, distribution, and use of moneys in the trust
5 fund.

DIVISION II

PARTIES TO ELEVATED MARRIAGE — TAX CREDIT AND PARENTAL LEAVE

8 Sec. 11. NEW SECTION. 91A.5B Treatment of parent of newborn
9 — party to elevated marriage.

10 In addition to any other leave available to an employee who
11 is a parent of a newborn child, the employer of an employee who
12 is the parent of a newborn child and is a party to an elevated
13 marriage as specified in chapter 595A, shall be entitled to
14 an additional four weeks of paid leave following the birth of
15 such child. Costs of such leave shall be reimbursed through
16 expenditure of moneys credited to the elevated marriage trust
17 fund established pursuant to section 595A.10.

18 Sec. 12. NEW SECTION. 422.12F Elevated marriage — first
19 child — tax credit.

1. For purposes of this section, "*elevated marriage*" means a marriage that meets the conditions and requirements for an elevated marriage pursuant to chapter 595A.

23 2. The taxes imposed under this division, less the credits
24 allowed under section 422.12, shall be reduced by an elevated
25 marriage child tax credit in the amount of one thousand dollars
26 for the first child born to the taxpayer who is a party to an
27 elevated marriage.

28 3. Any credit in excess of the tax liability is refundable.
29 In lieu of claiming a refund, the taxpayer may elect to have
30 the overpayment shown on the taxpayer's final, completed return
31 credited to the tax liability for the following tax year.

32 4. The department of revenue shall adopt rules to administer
33 this section.

DIVISION III

CONFORMING CHANGES

1 Sec. 13. NEW SECTION. **217.41C Transfer of funds to elevated**
2 **marriage trust fund.**

3 Of the funds appropriated from the general fund of the state
4 to the department of human services, annually, the department
5 shall transfer five hundred thousand dollars to the elevated
6 marriage trust fund.

7 Sec. 14. Section 331.602, Code 2019, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 41. Record all declarations of intent
10 pursuant to chapter 595A that are presented to the recorder's
11 office for recording, upon payment of a fee in accordance with
12 section 331.604.

13 Sec. 15. NEW SECTION. **595.3B Certificate of marriage —**
14 **elevated marriage designation.**

15 In addition to any other information contained in a
16 certificate of marriage, the certificate of marriage shall
17 include a section to allow the parties to designate the
18 marriage as an elevated marriage.

19 Sec. 16. NEW SECTION. **595.3C Elevated marriage —**
20 **information pamphlet.**

21 The county registrar shall provide each applicant for
22 a license to marry with a copy of the elevated marriage
23 informational pamphlet prepared by the office of the attorney
24 general pursuant to section 595A.6.

25 Sec. 17. NEW SECTION. **595.14 Elevated marriage —**
26 **declaration return.**

27 If the parties wish to designate the marriage an elevated
28 marriage, after the marriage has been solemnized, the
29 officiating minister or magistrate shall return the completed
30 certificate of marriage with the section designating the
31 marriage as an elevated marriage clearly indicated to the
32 county registrar in the county in which the parties applied for
33 a license to marry, within fifteen days of the solemnization.
34 Additionally, the parties to the marriage shall record the
35 declaration of intent with the county recorder in the county in

1 which the parties applied for the license to marry, and shall
2 pay the fee in accordance with section 331.604.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill creates the elevated marriage Act and makes other
7 conforming changes.

8 Division I of the bill provides that an elevated marriage
9 may be entered into only by one man and one woman who meet the
10 age requirements otherwise applicable to marriage under current
11 law and who agree that the marriage between them is a lifelong
12 relationship; receive authorized counseling emphasizing the
13 nature, purposes, and responsibilities of marriage; and file
14 a declaration of intent and the required attachments with the
15 county registrar.

16 Division I of the bill specifies the recitation to be
17 included in a declaration of intent to enter into an elevated
18 marriage and requires that the declaration of intent completed
19 by the parties shall be filed with the county registrar, and
20 accompanied by an affidavit of the parties that they have
21 received authorized counseling and an attestation signed by the
22 person who provided the authorized counseling confirming that
23 the parties received authorized counseling. The declaration
24 of intent and the required attachments shall be prepared in
25 duplicate originals, one of which shall be retained by the
26 parties and the other of which shall be filed with the county
27 registrar of the county in which the parties applied for a
28 license to marry.

29 Division I of the bill also provides a process for married
30 parties to redesignate their marriage as an elevated marriage.

31 Division I of the bill requires the office of the attorney
32 general to develop an informational pamphlet entitled
33 "Elevated Marriage Act" that outlines in sufficient detail
34 the requirements for entering into an elevated marriage or
35 redesignating an existing marriage as an elevated marriage, the

1 implications of entering into an elevated marriage, and the
2 legal differences between an elevated marriage and a marriage
3 under current law. The informational pamphlet shall be made
4 available to all offices of the county registrar and to all
5 persons who provide authorized counseling under this Code
6 chapter.

7 Division I of the bill provides exclusive grounds for
8 dissolution of an elevated marriage involving the welfare of a
9 minor child and the process for such dissolution, and provides
10 grounds for obtaining a decree of legal separation from an
11 elevated marriage.

12 Division I of the bill provides that an elevated marriage
13 is governed by all of the provisions of Code chapter 595
14 (marriage) and Code chapter 598 (dissolution of marriage and
15 domestic relations) which do not conflict with the provisions
16 of the bill.

17 Division I of the bill creates an elevated marriage trust
18 fund in the state treasury under the control of the department
19 of human services, consisting of the moneys transferred by
20 the department of human services to the trust fund, annually.
21 Moneys in the trust fund are appropriated and shall be used
22 for the payment of tax credits and for reimbursement for
23 parental leave as provided in Division II of the bill. The
24 treasurer of state, the director of the department of revenue,
25 the director of the department of human services, and the
26 labor commissioner shall jointly adopt rules for the transfer,
27 deposit, distribution, and use of moneys in the trust fund.

28 Division II of the bill entitles an employee who is the
29 parent of a newborn child and is a party to an elevated
30 marriage, in addition to any other leave available to the
31 parent of a newborn child, to an additional four weeks of paid
32 leave following the birth of such child. Costs of such leave
33 shall be reimbursed through expenditure of moneys deposited in
34 the elevated marriage trust fund.

35 Division II of the bill also provides for a tax credit for a

1 party to an elevated marriage in the amount of \$1,000 for the
2 first child born to the taxpayer. The tax credit is reimbursed
3 through expenditure of moneys deposited in the elevated
4 marriage trust fund. The department of revenue is directed to
5 adopt rules to administer the provision.

6 Division III of the bill makes conforming changes to
7 facilitate the filing of the declaration of intent and the
8 return of the certificate of marriage for an elevated marriage
9 and for transfer of funds to the elevated marriage trust fund.